

(e) REPEAL OF SUNSET.—Section 1265 of the Global Magnitsky Human Rights Accountability Act (Subtitle F of title XII of Public Law 114-328; 22 U.S.C. 2656 note) is repealed.

TITLE IX—OTHER MATTERS

SEC. 5901. LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT.

Section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) is amended—

(1) by striking “No assistance” and inserting the following:

“(1) No assistance”;

(2) by inserting “the government of” before “any country”;

(3) by inserting “the government of” before “such country” each place it appears;

(4) by striking “determines” and all that follows and inserting “determines, after consultation with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, that assistance for such country is in the national interest of the United States.”; and

(5) by adding at the end the following new paragraph:

“(2) No assistance shall be furnished under this Act, the Peace Corps Act, the Millennium Challenge Act of 2003, the African Development Foundation Act, the BUILD Act of 2018, section 504 of the FREEDOM Support Act, or section 23 of the Arms Export Control Act to the government of any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest or any loan made to the government of such country by the United States unless the President determines, following consultation with the congressional committees specified in paragraph (1), that assistance for such country is in the national interest of the United States.”.

SEC. 5902. SEAN AND DAVID GOLDMAN CHILD ABDUCTION PREVENTION AND RETURN ACT OF 2014 AMENDMENT.

Subsection (b) of section 101 of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (22 U.S.C. 9111; Public Law 113-150) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by inserting “, respectively,” after “access cases”; and

(ii) by inserting “and the number of children involved” before the semicolon at the end; and

(B) in subparagraph (D), by inserting “respectively, the number of children involved,” after “access cases,”;

(2) in paragraph (7), by inserting “, and number of children involved in such cases” before the semicolon at the end;

(3) in paragraph (8), by striking “and” after the semicolon at the end;

(4) in paragraph (9), by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following new paragraph:

“(10) the total number of pending cases the Department of State has assigned to case officers and number of children involved for each country and as a total for all countries.”.

SEC. 5903. CONGRESSIONAL OVERSIGHT, QUARTERLY REVIEW, AND AUTHORITY RELATING TO CONCURRENCE PROVIDED BY CHIEFS OF MISSION FOR THE PROVISION OF SUPPORT RELATING TO CERTAIN UNITED STATES GOVERNMENT OPERATIONS.

(a) NOTIFICATION REQUIRED.—Not later than 30 days after the date on which a chief of mission provides concurrence for the provision of United States Government support to entities or individuals engaged in facilitating or supporting United States Govern-

ment operations within the area of responsibility of the chief of mission, the Secretary of State shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of the provision of such concurrence.

(b) QUARTERLY REVIEW, DETERMINATION, AND BRIEFING REQUIRED.—Not less frequently than every 90 days, the Secretary of State shall, in order to ensure support described in subsection (a) continues to align with United States foreign policy objectives and the objectives of the Department of State—

(1) conduct a review of any concurrence described in subsection (a) in effect as of the date of the review;

(2) based on the review, determine whether to revoke any such concurrence pending further study and review; and

(3) brief the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the results of the review.

(c) REVOCATION OF CONCURRENCE.—Based on the review conducted pursuant to subsection (b), the Secretary may revoke any such concurrence.

(d) ANNUAL REPORT REQUIRED.—Not later than January 31 of each year, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report that includes the following:

(1) A description of any support described in subsection (a) that was provided with the concurrence of a chief of mission during the calendar year preceding the calendar year in which the report is submitted.

(2) An analysis of the effects of the support described in paragraph (1) on diplomatic lines of effort, including with respect to—

(A) Nonproliferation, Anti-terrorism, Demining, and Related Programs (NADR) and associated Anti-Terrorism Assistance (ATA) programs;

(B) International Narcotics Control and Law Enforcement (INCLE) programs; and

(C) Foreign Military Sales (FMS), Foreign Military Financing (FMF), and associated training programs.

SEC. 5904. REPORT ON EFFORTS OF THE CORONAVIRUS REPATRIATION TASK FORCE.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate a report evaluating the efforts of the Coronavirus Repatriation Task Force of the Department of State to repatriate United States citizens and legal permanent residents in response to the 2020 coronavirus outbreak. The report shall identify—

(1) the most significant impediments to repatriating such persons;

(2) the lessons learned from such repatriations; and

(3) any changes planned to future repatriation efforts of the Department of State to incorporate such lessons learned.

SA 4731. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title X, insert the following:

SEC. ____ DEVELOPMENT AND TESTING OF DYNAMIC SCHEDULING AND MANAGEMENT OF SPECIAL ACTIVITY AIRSPACE.

(a) SENSE OF CONGRESS ON SPECIAL ACTIVITY AIRSPACE SCHEDULING AND MANAGEMENT.—It is the sense of Congress that—

(1) where it does not conflict with safety, dynamic scheduling and management of special activity airspace (also referred to as “dynamic airspace”) is expected to optimize the use of the national airspace system for all stakeholders; and

(2) the Administrator of the Federal Aviation Administration and the Secretary of Defense should take such actions as may be necessary to support ongoing efforts to develop dynamic scheduling and management of special activity airspace, including—

(A) the continuation of formal partnerships between the Federal Aviation Administration and the Department of Defense that focus on special activity airspace, future airspace needs, and joint solutions; and

(B) maturing research within their federally funded research and development centers, Federal partner agencies, and the aviation community.

(b) PILOT PROGRAM.—

(1) PILOT PROGRAM REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in coordination with the Secretary of Defense, shall establish a pilot program on developing and testing dynamic management of special activity airspace in order to accommodate emerging military training requirements through flexible scheduling, along with increasing access to existing special activity airspace used by the Department of Defense for test and training.

(2) TESTING OF SPECIAL ACTIVITY AIRSPACE SCHEDULING AND MANAGEMENT.—Under the pilot program established under paragraph (1), the Administrator and the Secretary shall jointly test not fewer than three areas of episodic or permanent special activity airspace designated by the Federal Aviation Administration for use by the Department of Defense, of which—

(A) at least one shall be over coastal waters of the United States;

(B) at least two shall be over land of the United States;

(C) access to airspace available for test and training is increased to accommodate dynamic scheduling of existing airspace to more efficiently and realistically provide test and training capabilities to Department of Defense aircrews; and

(D) any increase in access to airspace made available for test and training shall not conflict with the safe management of the national airspace system or the safety of all stakeholders of the national airspace system.

(c) REPORT BY THE ADMINISTRATOR.—

(1) IN GENERAL.—Not less than two years after the date of the establishment of the pilot program under subsection (b)(1), the Administrator shall submit to the appropriate committees of Congress a report on the interim findings of the Administrator with respect to the pilot program.

(2) ELEMENTS.—The report submitted under paragraph (1) shall include the following:

(A) An analysis of how the pilot program established under subsection (b)(1) affected access to special activity airspace by non-military users of the national airspace system.

(B) An analysis of whether the dynamic management of special activity airspace conducted for the pilot program established under subsection (b)(1) contributed to more

efficient use of the national airspace system by all stakeholders.

(d) **REPORT BY THE SECRETARY.**—Not less than two years after the date of the establishment of the pilot program under subsection (b)(1), the Secretary shall submit to the appropriate committees of Congress a report on the interim findings of the Secretary with respect to the pilot program. Such report shall include an analysis of how the pilot program affected military test and training.

(e) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate; and

(B) the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Armed Services of the House of Representatives.

(2) The term “special activity airspace” means the following airspace with defined dimensions within the National Airspace System wherein limitations may be imposed upon aircraft operations:

(A) Restricted areas.

(B) Military operations areas.

(C) Air Traffic Control assigned airspace.

(D) Warning areas.

SA 4732. Mr. REED submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . CYBERSECURITY TRANSPARENCY.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14B (15 U.S.C. 78n-2) the following:

“SEC. 14C. CYBERSECURITY TRANSPARENCY.

“(a) **DEFINITIONS.**—In this section—

“(1) the term ‘cybersecurity’ means any action, step, or measure to detect, prevent, deter, mitigate, or address any cybersecurity threat or any potential cybersecurity threat;

“(2) the term ‘cybersecurity threat’—

“(A) means an action, not protected by the First Amendment to the Constitution of the United States, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system; and

“(B) does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement;

“(3) the term ‘information system’—

“(A) has the meaning given the term in section 3502 of title 44, United States Code; and

“(B) includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers;

“(4) the term ‘NIST’ means the National Institute of Standards and Technology; and

“(5) the term ‘reporting company’ means any company that is an issuer—

“(A) the securities of which are registered under section 12; or

“(B) that is required to file reports under section 15(d).

“(b) **REQUIREMENT TO ISSUE RULES.**—Not later than 360 days after the date of enactment of this section, the Commission shall issue final rules to require each reporting company, in the annual report of the reporting company submitted under section 13 or section 15(d) or in the annual proxy statement of the reporting company submitted under section 14(a)—

“(1) to disclose whether any member of the governing body, such as the board of directors or general partner, of the reporting company has expertise or experience in cybersecurity and in such detail as necessary to fully describe the nature of the expertise or experience; and

“(2) if no member of the governing body of the reporting company has expertise or experience in cybersecurity, to describe what other aspects of the reporting company’s cybersecurity were taken into account by any person, such as an official serving on a nominating committee, that is responsible for identifying and evaluating nominees for membership to the governing body.

“(c) **CYBERSECURITY EXPERTISE OR EXPERIENCE.**—For purposes of subsection (b), the Commission, in consultation with NIST, shall define what constitutes expertise or experience in cybersecurity using commonly defined roles, specialties, knowledge, skills, and abilities, such as those provided in NIST Special Publication 800-181, entitled ‘National Initiative for Cybersecurity Education (NICE) Cybersecurity Workforce Framework’, or any successor thereto.”.

AUTHORITY FOR COMMITTEES TO MEET

Mrs. MURRAY. Mr. President, I have 5 requests for committees to meet during today’s session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate:

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:00 a.m., to conduct a hearing.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:00 a.m., to conduct a business meeting.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:15 a.m., to conduct a hearing on nominations.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:00 a.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during

the session of the Senate on Tuesday, November 16, 2021, at 2:30 p.m., to conduct a closed briefing.

U.S. SUPREME COURT

Mr. WHITEHOUSE. Mr. President, I rise today for now the ninth time to unmask the rightwing, dark money scheme to capture our Supreme Court. I say “capture” in the sense of regulatory capture, an Agency capture—a well-known phenomenon.

Today, I turn to an important tool of the scheme’s apparatus: the orchestrated amicus curiae brief.

So, first things first, amicus—or friend of the court—briefs are an important instrument in our judicial system. They help those who aren’t parties to a case to share their expertise, insight, or advocacy with the Court. I file them myself. “Friend of the court” briefs are necessary and useful, usually.

However, in recent years, the Court has had a lot more friends than it used to. Amici filed 781 briefs in the 2014 Supreme Court term—a more than 800-percent increase from the 1950s and a 95-percent increase just from 1995. In the 2010 term, 715 amicus briefs were filed in 78 cases. By 2019, that number had swelled to 911 briefs in just 57 cases. The average number of briefs per argued case almost doubled—from 9 in 2010 to 16 in 2019.

There is another odd feature to this uptick of amicus briefs. Most of the time, you file an amicus brief when the Justices have taken a case and are poised to actually decide the outcome of that case, at the so-called merits stage of the case, which makes sense because this is when the rulings actually become law. But these days, more and more amici arrive when the Court considers whether to take up the case, when the Justices are deciding whether to grant certiorari, or cert. Between 1982 and 2014, the percentage of petitions with at least one cert-stage amicus more than doubled.

Justices pay attention to amicus briefs. The Court cited amicus briefs 606 times in 417 opinions from 2008 to 2013—far more than in the past. These briefs don’t always add value, and top appellate judges are beginning to sound that alarm.

Seventh Circuit Judge Michael Scudder said in 2020: “Too many amicus briefs do not even pretend to offer value and instead merely repeat . . . a party’s position” and “serve only as a show of hands on what interest groups are rooting for what outcome.”

OK. So what does this have to do with the scheme?

Well, what happens if the Justices whom dark money forces ushered onto the Court are looking for that show of hands?

I doubt it is just a coincidence that the rightwing donor machine that set out to capture the Court has also kicked into gear flotillas of amici that